

§ 24.413

(1) The information and argument should be addressed to the Debarment Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

(2) If the respondent does not contest the suspension within the 30 day period, the suspension shall become final.

(3) If the respondent desires a hearing, it shall submit a written request to the Debarment Docket Clerk within the 30-day period following receipt of the notice of suspension.

(4) The parties may agree to engage in an alternative dispute resolution, including informal conference, mediation, conciliation, summary trial with binding decision, minitrial, or use of a settlement judge.

(b) *Additional proceedings as to disputed material facts.* (1) If the suspending official finds that the respondent's submission in opposition raises a genuine dispute over facts material to the suspension, respondent(s) shall be afforded an opportunity to appear with a representative, submit documentary evidence, present witnesses, and confront any witnesses the agency presents, unless:

(i) The action is based on an indictment, conviction or civil judgment; or

(ii) A determination is made, on the basis of Department of Justice advice, that the substantial interests of the Federal Government in pending or contemplated legal proceedings based on the same facts as the suspension would be prejudiced.

(2) A transcribed record of any additional proceedings shall be prepared and made available at cost to the respondent, unless the respondent and the agency, by mutual agreement, waive the requirement for a transcript.

(i) Upon the agreement of the parties, the additional proceedings may be recorded using audiotape without transcription. The audiotape shall be made available at cost to the respondent.

(ii) [Reserved]

[60 FR 33050, June 26, 1995]

§ 24.413 Suspending official's decision.

The suspending official may modify or terminate the suspension (see § 24.320(c) for reasons for reducing the period or scope of debarment) or may leave it in force. However, a decision to

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modify or terminate the suspension shall be without prejudice to the subsequent imposition of suspension by any other agency or debarment by any agency. The decision shall be rendered in accordance with the following provisions:

(a) *No additional proceedings necessary.* In actions based upon an indictment, conviction, or civil judgment, in which there is no genuine dispute over material facts, or in which additional proceedings to determine disputed material facts have been denied on the basis of Department of Justice advice, the suspending official shall make a decision on the basis of all the information in the administrative record, including any submission made by the respondent. The decision shall be made within 45 days after receipt of any information and argument submitted by the respondent, unless the suspending official extends this period for good cause.

(1) The suspending official may, in his or her discretion, refer actions based upon an indictment, conviction or civil judgment, or in which there is no genuine dispute over material facts, to a hearing officer or other official for review of the administrative record and appropriate findings. The hearing officer or other official shall issue such findings within 45 days after the referral, and the suspending official shall issue a decision within 15 days after the date of such findings, unless such periods are extended for good cause.

(2) [Reserved]

(b) *Additional proceedings necessary.* (1) In actions in which additional proceedings are necessary to determine disputed material facts, written findings of fact shall be prepared. The suspending official shall base the decision on the facts as found, together with any information and argument submitted by the respondent and any other information in the administrative record.

(2) The suspending official may refer matters involving disputed material facts to another official for findings of fact. The suspending official may reject any such findings, in whole or in part, only after specifically determining them to be arbitrary or capricious or clearly erroneous.

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(3) The suspending official may refer either disputed material facts or issues of law, or both to a hearing officer for either findings of fact or conclusions of law, or both.

(4) Unless the parties mutually agree to extend this period, a proceeding before a hearing officer or other official shall commence within 45 days after referral of disputed material facts and issues of law by the suspending official. The hearing officer or other official shall issue findings of fact within 30 days after the conclusion of such additional proceedings. The time limitations of this subparagraph may be extended upon issuance, by the suspending official, other official or hearing officer, of a written notice describing good cause for such extension.

(5) The suspending official's decision shall be made within 15 days after the hearing officer or other official issues findings of fact.

(c) *Notice of suspending official's decision.* Prompt written notice of the suspending official's decision shall be sent to the respondent.

[60 FR 33050, June 26, 1995, as amended at 65 FR 38707, June 21, 2000]

§ 24.415 Period of suspension.

(a) Suspension shall be for a temporary period pending the completion of an investigation or ensuing legal, debarment, or Program Fraud Civil Remedies Act proceedings, unless terminated sooner by the suspending official or as provided in paragraph (b) of this section.

(b) If legal or administrative proceedings are not initiated within 12 months after the date of the suspension notice, the suspension shall be terminated unless an Assistant Attorney General or United States Attorney requests its extension in writing, in which case it may be extended for an additional six months. In no event may a suspension extend beyond 18 months, unless such proceedings have been initiated within that period.

(c) The suspending official shall notify the Department of Justice of an impending termination of a suspension, at least 30 days before the 12-month period expires, to give that Department

an opportunity to request an extension.

[53 FR 19182 and 19204, May 26, 1988, as amended at 60 FR 33051, June 26, 1995]

§ 24.420 Scope of suspension.

The scope of a suspension is the same as the scope of a debarment (see § 24.325), except that the procedures of §§ 24.410 through 24.413 shall be used in imposing a suspension.

Subpart E—Responsibilities of GSA, Agency and Participants

§ 24.500 GSA responsibilities.

(a) In accordance with the OMB guidelines, GSA shall compile, maintain, and distribute a list of all persons who have been debarred, suspended, or voluntarily excluded by agencies under Executive Order 12549 and these regulations, and those who have been determined to be ineligible.

(b) At a minimum, this list shall indicate:

(1) The names and addresses of all debarred, suspended, ineligible, and voluntarily excluded persons, in alphabetical order, with cross-references when more than one name is involved in a single action;

(2) The type of action;

(3) The cause for the action;

(4) The scope of the action;

(5) Any termination date for each listing; and

(6) The agency and name and telephone number of the agency point of contact for the action.

(c) In accordance with 48 CFR 9.404, GSA shall compile and distribute a list of contractors who are debarred, suspended or ineligible.

[53 FR 19182 and 19204, May 26, 1988, as amended at 53 FR 19186, May 26, 1988]

§ 24.505 HUD responsibilities.

(a) The agency shall provide GSA with current information concerning debarments, suspension, determinations of ineligibility, and voluntary exclusions it has taken. Until February 18, 1989, the agency shall also provide GSA and OMB with information concerning all transactions in which HUD has granted exceptions under § 24.215 permitting participation by debarred,