

United States Postal Service

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or law presented on the record, and an appropriate order. A tentative decision shall become the final decision of the Postal Service unless exceptions are filed in accordance with § 956.22.

§ 956.22 Exceptions to initial decision or tentative decision.

(a) A party in a proceeding presided over by an Administrative Law Judge, except a party who failed to file an answer, may appeal to the Judicial Officer by filing exceptions in a brief on appeal within 15 days from the receipt of the Administrative Law Judge's written initial decision.

(b) A party in a proceeding presided over by the Judicial Officer, except one who has failed to file an answer, may file exceptions within 15 days from the receipt of the Judicial Officer's written tentative decision.

(c) Upon receipt of the brief on appeal from an initial decision of an Administrative Law Judge, the Recorder shall promptly transmit the record to the Judicial Officer. The date for filing the reply to a brief on appeal or to a brief in support of exceptions to a tentative decision by the Judicial Officer is 10 days after the receipt thereof. No additional briefs shall be received unless requested by the Judicial Officer.

(d) Briefs on appeal or in support of exceptions and replies thereto shall be filed in quadruplicate with the Recorder and contain the following matter in the order indicated:

(1) A subject index of the matters presented, with page references; a table of cases alphabetically arranged; a list of statutes and texts cited, with page references.

(2) A concise abstract or statement of the case.

(3) Numbered exceptions to specific findings of fact or conclusions of law of the presiding officer.

(4) A concise argument clearly setting forth points of fact and of law relied upon in support of, or in opposition to, each exception taken, together with specific references to the pertinent part of the record and the legal or other authorities relied upon.

(e) Unless permission is granted by the Judicial Officer, no brief on appeal or in support of exceptions shall exceed

50 printed or 100 typewritten pages double spaced.

(f) The Judicial Officer will extend the time to file briefs only upon motion for good cause found. The movant shall be promptly notified of the Judicial Officer's decision on the motion.

§ 956.23 Judicial Officer.

The Judicial Office is authorized:

(a) To act as presiding officer at hearings;

(b) To render tentative decisions;

(c) To render final decisions of the Postal Service;

(d) To refer the record in any proceedings to the Postmaster General or the Deputy Postmaster General who will make the final decision of the Postal Service; and

(e) To revise or amend these rules of practice. In determining appeals from initial decisions or exceptions to tentative decisions, the entire official record will be considered before a final decision of the Postal Service is rendered. Before rendering a final decision of the Postal Service, the Judicial Officer may order the hearing reopened for the presentation of additional evidence by the parties.

§ 956.24 Motion for reconsideration.

Within 10 days from the date thereof, or such longer period as may be fixed by the Judicial Officer, either party may file a motion for reconsideration of the final agency decision. Each motion for reconsideration shall be accompanied by a brief clearly setting forth the points of fact and of law relied upon in support of said motion. The Judicial Officer, in his discretion, may hold a hearing on the issues raised by the motion.

§ 956.25 Modification or revocation of orders.

A party against whom an order has been issued may file an application setting forth reasons which he believes warrant the modification or revocation of the order. The Recorder shall transmit a copy of the application to the Ethical Conduct Officer who shall file a written reply. A copy of the reply shall be sent to the applicant by the Recorder. The Judicial Officer, in his discretion, may hold a hearing on the

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issues raised by the application. Thereafter an order granting or denying such application will be issued by the Judicial Officer.

§ 956.26 Computation of time.

A designated period of time under the rules of this part excludes the day the period begins and includes the last day of the period unless the last day is a Saturday or Sunday or legal holiday, in which event the period runs until the close of business on the next business day.

§ 956.27 Official record.

The transcript of testimony together with all pleadings, orders, exhibits, briefs, and other documents filed in the proceeding shall constitute the official record of the proceeding.

§ 956.28 Ex parte communications.

The provisions of 5 U.S.C. 551(14), 556(d) and 557(d) prohibiting ex parte communications are made applicable to proceedings under these rules of practice.

PART 957—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO DEBARMENT AND SUSPENSION FROM CONTRACTING

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AUTHORITY: 39 U.S.C. 204, 401.

SOURCE: 36 FR 11574, June 16, 1971, unless otherwise noted.

§ 957.1 Authority for rules.

The rules in this part are issued by the Judicial Officer of the Postal Service pursuant to authority delegated by the Postmaster General (39 U.S.C. secs. 204, 401; chapter 3, section 7 of the Postal Service Purchasing Manual).

[36 FR 11574, June 16, 1971, as amended at 41 FR 19309, May 12, 1976; 63 FR 66051, Dec. 1, 1998]

§ 957.2 Scope of rules.

The rules in this part shall be applicable in all formal proceedings before the Postal Service pertaining to hearings initiated under chapter 3, section 7 of the Postal Service Purchasing Manual.

[36 FR 11574, June 16, 1971, as amended at 41 FR 19309, May 12, 1976; 63 FR 66051, Dec. 1, 1998; 67 FR 62179, Oct. 4, 2002]

§ 957.3 Definitions.

(a) The term *Vice President* means a Vice President with purchasing authority in the Postal Service or the Vice President's representative for the purpose of carrying out the provisions of chapter 3, section 7 of the Postal Service Purchasing Manual.

(b) The term *General Counsel* includes the General Counsel's authorized representative.

(c) The term *Judicial Officer* includes the Acting Judicial Officer.

(d) *Debarment* means, in general, an exclusion from Government contracting and subcontracting for a reasonable, specified period of time commensurate with the seriousness of the offense or failure, or the inadequacy of performance.

(e) *Suspension* means a disqualification from Government contracting and subcontracting for a temporary period of time because a concern or individual is suspected upon adequate evidence of engaging in criminal, fraudulent, or seriously improper conduct.