

§ 1641.3

by competent authority charging a criminal offense shall be given the same effect as an indictment.

IPA means an independent public accountant or firm of accountants.

Knowingly means that an act was done voluntarily and intentionally and not because of mistake or accident.

Material fact means one which is necessary to determine the outcome of an issue or case and without which the case could not be supported.

Person means an individual or a firm, partnership, corporation, association, or other legal entity.

Preponderance of the evidence means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

Removal means a decision by the debaring official to prohibit an IPA from performing audit services in subsequent years of an existing contract with one or more specific recipients based upon a finding by a preponderance of the evidence that any of the causes set out in §1641.18 exist.

Suspension means a decision by the debaring official, in anticipation of a debarment, to prohibit an IPA from soliciting or entering into new contracts to perform audit services for recipient(s) based upon a finding of adequate evidence that any of the causes referred to in §1641.13 exist. Suspension may preclude an IPA from soliciting or entering into new contracts with all recipients or with one or more specific recipients.

§ 1641.3 Scope of debarment, suspension and removal.

An IPA may be debarred, suspended or removed under this part only if the IPA is specifically named and given notice of the proposed action and an opportunity to respond in accordance with this part.

(a) *Actions against individual IPAs.* Debarment, suspension or removal of an individual IPA, debars, suspends or removes that individual from performing audit services as an individual or as an employee, independent contractor, agent or other representative of an IPA firm.

(b) *Actions against IPA firms.* (1) Debarment, suspension or removal shall

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affect only those divisions or other organizational elements materially involved in the relevant engagement and as to which there is cause to debar, suspend or remove.

(2) The debarment, suspension or removal action contemplated in paragraph (b)(1) of this section may include any firm that is an affiliate, subcontractor, joint venturer, agent or representative of the IPA firm only if such firm was materially involved in the relevant engagement and is specifically named and given notice of the proposed action and an opportunity to respond in accordance with this part.

(3) The debarment, suspension or removal action contemplated in paragraph (b)(1) of this section may include an individual officer, director, or partner responsible for the engagement, or an individual employee, independent contractor, agent, representative or other individual associated with an IPA firm only if such individual is specifically named and given notice of the proposed action and an opportunity to respond in accordance with this part.

§ 1641.4 Duration of debarment, suspension and removal.

A debarment, suspension or removal is effective as set out in the debaring official's decision to debar, suspend or remove, issued pursuant to §1641.22.

(a) *Debarment.* (1) Debarment generally should not exceed three years, but may be for a shorter period based on a consideration of the evidence presented by the IPA. Debarment may exceed three years in extraordinary circumstances.

(2) If a suspension precedes a debarment, the suspension period shall be considered in determining the debarment period.

(3) The debaring official may extend an existing debarment for an additional period if the debaring official determines, based on additional facts not previously in the record, that an extension is necessary to protect LSC funds. The standards and procedures in this part shall be applied in any proceeding to extend a debarment.

(b) *Suspension.* (1) The debaring official may determine that a cause for suspension exists, but that an investigation or other legal or debarment