

United States Postal Service

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(f) *Respondent* means any individual, firm or other entity which has been served a written notice of proposed debarment pursuant to chapter 3, section 7 of the Postal Service Purchasing Manual.

(g) The Recorder means the Recorder of the United States Postal Service, 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201-3078.

[36 FR 11574, June 16, 1971, as amended at 38 FR 17217, June 29, 1973; 41 FR 19309, May 12, 1976; 63 FR 66051, Dec. 1, 1998]

§ 957.4 Initiation of debarment proceedings.

(a) A Vice President shall initiate a debarment proceeding by serving upon the proposed Respondent a written notice of proposed debarment in the manner hereinafter (§ 957.8(d)) provided for the service of all other papers.

(b) The notice shall state:

(1) That debarment is being considered;

(2) The reasons for the proposed debarment;

(3) The period of debarment and the proposed effective date thereof;

(4) That the debarment will not become effective until after a hearing if such hearing is requested within 20 days following the receipt of the notice; and

(5) That the request for a hearing is to be submitted in the manner prescribed by the rules in this part, a copy of which shall be enclosed with the notice.

(c) If no hearing is requested within 20 days following the receipt of the notice, the action of the Vice President set forth in the notice shall become the final agency determination without further notice to the Respondent.

(d) The party against which a final agency determination has been entered pursuant to paragraph (c) of this section shall, however, at any time have the privilege of reopening a case for the limited purpose of contesting the issue of service. Such party's contentions on that issue shall be addressed to the Judicial Officer in the same manner as a request for a hearing (see § 957.5). The Judicial Officer may require such additional showings or proof as the Judicial Officer may deem necessary on the issue of service and shall

reopen any debarment proceeding previously closed pursuant to paragraph (c) of this section if the Judicial Officer shall find that service was incomplete or otherwise failed to adequately advise of the pendency of the proposed debarment.

[36 FR 11574, June 16, 1971, as amended at 63 FR 66051, Dec. 1, 1998]

§ 957.5 The request for a hearing.

A respondent may, within 20 days following the receipt of a written notice of proposed debarment, file a request for a hearing before the Judicial Officer. The request shall be addressed to the presiding officer through the Vice President who initiated the debarment proceeding and shall be accompanied by a concise statement admitting, denying or explaining each of the allegations set forth in the notice of proposed debarment and stating the relief desired.

[36 FR 11574, June 16, 1971, as amended at 63 FR 66051, Dec. 1, 1998]

§ 957.6 Order relative to hearing.

(a) The Judicial Officer shall issue an order granting the Respondent's request for a hearing, establishing the time and place thereof and advising the Respondent of the consequences of a failure to appear at the hearing (see § 957.9). Whenever practicable, the hearing date shall be within 30 days of the date of the Judicial Officer's order relative to hearing.

(b) The notice of proposed debarment and the request for a hearing together with the reply, if any, shall become the pleadings in any proceeding in which the Judicial Officer orders a hearing to be held.

§ 957.7 Reply.

Not more than 15 days from the service of the request for a hearing, the General Counsel may submit a reply on behalf of the Vice President who initiated the debarment proceeding.

[36 FR 11574, June 16, 1971, as amended at 63 FR 66051, Dec. 1, 1998]

§ 957.8 Service and filing documents for the record.

(a) Each party shall file with the Recorder pleadings, motions, orders and

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other documents for the record. The Recorder shall cause copies to be served promptly on other parties to the proceeding and on the Judicial Officer.

(b) The parties shall submit four copies of all documents unless otherwise ordered by the Judicial Officer. One copy shall be signed as the original.

(c) Documents shall be dated and shall state the docket number and title of the proceeding. Any pleading or other document required by order of the Judicial Officer to be filed by a specified date shall be served upon the Recorder on or before such date. The date of such service shall be the filing date and shall be entered thereon by the Recorder.

(d) Service of all papers shall be effected by mailing the same, postage prepaid registered, or certified mail, return receipt requested, or by causing said notice to be personally served on the proposed Respondent by an authorized representative of the Vice President. In the case of personal service the person making service shall secure from the proposed Respondent or his or her agent, a written acknowledgment of receipt of said notice, showing the date and time of such receipt. Said acknowledgment (or the return receipt where service is effectuated by mail) shall be made a part of the record by the Vice President initiating the debarment proceeding. The date of delivery, as shown by the acknowledgment of personal service or the return receipt, shall be the date of service.

[36 FR 11574, June 16, 1971, as amended at 63 FR 66051, Dec. 1, 1998]

§ 957.9 Respondent's failure to appear at the hearing.

If the Respondent shall fail to appear at the hearing, the Judicial Officer shall receive the Vice President's evidence and render a Postal Service Decision without requirement of further notice to the Respondent.

[36 FR 11574, June 16, 1971, as amended at 37 FR 23422, Nov. 3, 1972; 63 FR 66051, Dec. 1, 1998]

§ 957.10 Respondent already debarred by another Government agency.

(a) When a Vice President proposes to debar a firm or individual already debarred by another Government agen-

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cy for a term concurrent with such debarment, the debarment proceedings before the Postal Service may be based entirely upon the record of facts obtained from such other agency or upon such facts and additional other facts. In such cases the facts obtained from the other agency shall be considered as established, but the party to be debarred shall have opportunity to present information to the Judicial Officer and to explain why the debarment by the Postal Service should not be imposed.

(b) Where the Vice President initiating the debarment proceeding relies:

(1) Upon the provisions of paragraph (a) of this section, or

(2) Upon all or part of the record of the proposed Respondent's previous debarment by another Government agency, in initiating such proceeding, the notice of proposed debarment shall contain a statement so stating in sufficient detail to apprise the Respondent of the extent of such reliance.

(c) The Vice President's reliance upon provisions of paragraph (a) of this section, stated in conformity with the directions set forth in paragraph (b) of this section does not deprive the Respondent of the right to request the Judicial Officer to grant a hearing pursuant to these rules, nor the Judicial Officer the full discretion to grant or deny such request.

[36 FR 11574, June 16, 1971, as amended at 63 FR 66051, Dec. 1, 1998]

§ 957.11 Amendment of pleadings.

(a) By consent of the parties a pleading may be amended at any time. Also, a party may move to amend a pleading at any time prior to the close of the hearing: *Provided*, That the proposed amendment is reasonably within the scope of the proceeding.

(b) When issues not raised by the pleadings but reasonably within the scope of the proceedings initiated by the notice of proposed debarment are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendments as may be necessary to make the pleadings conform to the evidence and to raise such issues shall be allowed at