

WAC 262-03-040 Temporary disqualification of participants. (1)

Any participant in any covered transaction may be immediately and temporarily disqualified from such participation:

(a) If the debarment and disqualification officer determines that adequate evidence exists to support a reasonable belief that the participant is in substantial and material noncompliance sufficient to be cause for debarment; and

(b) If the debarment and disqualification officer determines that immediate action is necessary to protect the public interest in doing business with responsible persons. Consistent with the commission's purposes, the public interest includes providing affordable housing, administering orderly programs, and maximizing use of the bond financing and LIHTC programs.

(2) By way of example but not limitation, the debarment and disqualification officer may presume that the participant is in substantial and material noncompliance and that immediate action is necessary to protect the public interest where:

(a) The participant is delinquent in payment of any fees due under any commission program, including the LIHTC program;

(b) The participant has failed to meet any deadline under any commission program, including the LIHTC program;

(c) The participant has failed to comply with the terms, conditions, or obligations of one or more covered transactions;

(d) The participant has made material misstatements or omissions in proposals or any other communication to the commission;

(e) A state or other governmental agency reports that the participant is in substantial and material noncompliance in other jurisdictional programs; or

(f) The participant has supplied insufficient or incomplete information in conjunction with any commission program.

(3) Any decision by the debarment and disqualification officer to temporarily disqualify a participant is discretionary; however, no decision will be based on unsupported allegations. The existence of adequate evidence of substantial and material noncompliance does not necessarily require that the person be temporarily disqualified. The debarment and disqualification officer may consider the seriousness of the participant's acts or omissions as well as any mitigating factors to determine whether temporary disqualification is necessary to protect the public interest.

(4) If debarment or legal proceedings are not initiated by the commission or the debarment and disqualification officer within twelve months after the date of the temporary disqualification notice, the temporary disqualification will be terminated.

(5) If the debarment and disqualification officer determines that temporary disqualification in accordance with subsections (1) or (2) of this section is appropriate, the debarment and disqualification officer will notify the respondent by personal service or certified mail of the temporary disqualification and the reasons therefor. Notice of temporary disqualification will include:

(a) A statement of the nature of the temporary disqualification action;

(b) A short and plain statement of, and the reasons for, the temporary disqualification action; and

(c) Information about the administrative review, hearings and appeals processes available to respondent pursuant to WAC 262-03-070 through 262-03-090.

(6) The temporary disqualification is effective immediately upon the respondent's receipt of the notice. Upon notification, the respondent will be entitled to the procedures set forth in WAC 262-03-070 through 262-03-090.

[Statutory Authority: Chapter 43.180 RCW. WSR 97-16-019, § 262-03-040, filed 7/28/97, effective 8/28/97.]