

WAC 262-03-060 Debarment. (1) If the debarment and disqualification officer determines, by a preponderance of the evidence, that the respondent has committed any act, or made any omission, that constitutes substantial and material noncompliance, the debarment and disqualification officer may issue an order of debarment.

(2) By way of example but not limitation, the debarment and disqualification officer may presume that the participant is in substantial and material noncompliance if:

(a) The participant is delinquent in payment of any fees due under any commission program, including the LIHTC program, and payment of the delinquent amount has been demanded via certified mail to the last known address of the participant;

(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) An order of debarment disqualifies the respondent from participating in any commission program for the period specified in the order. The debarment term will be commensurate with the seriousness of the cause(s) but generally the debarment period should not exceed three years from the date that the debarment order is issued. Consideration may be given for any period of temporary disqualification already completed by the respondent.

(4) Debarment of a person under this section constitutes debarment of all its divisions and other organizational elements from all covered transactions, unless the debarment decision is limited by its terms to one or more specifically identified individuals, divisions, or other organizational elements or to specific types of transactions. The debarment action may include any affiliate of the participant that is specifically named and given notice of the proposed debarment pursuant to subsection (5) of this section and an opportunity to oppose the debarment pursuant to WAC 262-03-070 through 262-03-090. For the purposes of WAC 262-03-070 through 262-03-090, any named affiliate will be considered a respondent.

(5) The order of debarment will be served on the respondent by personal service or certified mail. It will include notification of the effect of debarment and the reasons debarment has been ordered as well as information about the administrative review, hearing and appeals processes available to respondent pursuant to WAC 262-03-070 through 262-03-090.

(6) Upon receipt of an order of debarment, 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, § 262-03-060, filed 7/28/97, effective 8/28/97.]