
CHAPTER 5. IMPOSING SANCTIONS ON INDEPENDENT PUBLIC
ACCOUNTANTS

5-1. INTRODUCTION

Sanctions are measures imposed upon IPAs whose performance is unacceptable based on HUD criteria or professional standards or whose integrity is in question. Sanctions may result in referral to local and state licensing authorities, temporary denial of participation, suspension, or debarment. These actions are defined as follows:

- A. Temporary denial of participation. A temporary denial is an exclusion from HUD programs by an Field Office Director, Insuring Office Director or a Regional Administrator for a specified period not to exceed twelve months. The denial is limited in effect to the jurisdiction of the office initiating the action and the specific program under which this action is taken.
- B. Suspension means a disqualification from participation in HUD programs for a temporary period of time because an IPA is suspected upon adequate evidence of engaging in criminal, fraudulent, or seriously improper conduct.
- C. Debarment means exclusion from participation in HUD programs for a reasonable, specified period of time commensurate with the seriousness of the offense or the failure or inadequacy of performance generally not to exceed five years. However, the hearing officer may exclude a party for an indefinite period because of excessive and willful improper conduct. Debarment also means exclusion from participation by reason of ineligibility under regulations of the Secretary of Labor pursuant to Executive Order 11246, for which exclusion continues pending correction of the circumstances for which it was imposed.

In situations where there is an immediate threat to Departmental programs by an unrestricted continued operation of an IPA or program participant who is being recommended for suspension or debarment, the Asset/Loan Management Branch Chief should consider recommending that the HUD Office Manager immediately impose Temporary Denial of Participation while the suspension/debarment recommendation is being processed. This priority action protects the public interest and the Department from further adverse effects.

5-2. LEGISLATIVE AUTHORITY

HUD administrative sanction procedures are codified in 24 CFR, Part 24 which is issued under section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

5-3. OTHER SANCTIONS AVAILABLE TO THE DEPARTMENT

Other sanctions that may be imposed are as follows:

- A. Placement in ineligibility status which means a disqualification from participation in HUD programs due to imposition of a sanction by another Federal agency and pending the elimination of the circumstances which constitute the basis for imposition of the disqualification.
- B. Conditional participation. This is an exclusion of a contractor by an Field Office Director, Insuring Office Director or a Regional Administrator from participation in one HUD program, generally pending corrective actions by the contractor. The exclusion is limited in effect to the jurisdiction of the office imposing the condition and the specific program under which the action is taken.
- C. Administrative sanctions. These are any actions taken by the Department that limit the right of an entity to participate in Departmental programs or that impose Civil Money Penalties.
- D. Referral to State Licensing Authority and Trade Associations.

5-4. MALPRACTICE INDICATORS

The following are some indicators of malpractice by IPA's:

- A. Determination of previous or current lawsuits against an IPA.
- B. IPA's working papers do not support the audit report.
- C. Any evidence of fraud, criminal actions, or other serious improper conduct.
- D. Inclusion of the IPA on a list of contractors subject to administrative sanctions which is maintained by the Inspector

5/92

5-2

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General and made available to Department employees whose duties require access to the list.

5-5. WHEN TO IMPOSE SANCTIONS

Sanctions should be imposed when it has been determined that an IPA

has committed irregularities of a serious nature with respect to the malpractice indicators above. Recommendations for sanctions shall be forwarded to the IG for disposition. However, a temporary denial of participation may be imposed by a Field Office Director, Insuring Office Director, or a Regional Administrator.

5-6. HOW TO IMPOSE SANCTIONS

Department action to exclude or to disqualify IPA's from participating in its programs, or to reconsider such measures, shall be based upon all available relevant facts. Department investigation required to uncover such facts and related evidence shall be conducted by the Office of the Inspector General or by such other office that has been assigned investigative authority.

It is incumbent upon the officer, making the recommendation to impose sanctions, to provide the IG with all known facts of the case and to further cooperate fully with the investigative authority. Hearings may be held which may require testimony by cognizant HUD personnel.

Recommendations to impose sanctions or to reconsider such measures should be included in a memorandum to the IG from the applicable Regional Administrator. The memorandum shall include all facts and reasons for the recommendations.

Field Office Directors and Regional Administrators may also recommend the removal of sanctions when it is evident that an IPA has corrected the deficiencies that effected the sanction.