



**ADMINISTRATIVE RULES
REPORT TO LEGISLATURE
Clearinghouse Rule 10-063**

By the Department of Administration Relating to Chapter Adm 24

Basis and Purpose of Propose Rule:

The proposed rule establishes the policies and procedures for suspension and debarment of DOA contractors that have either had past contract performance problems or have committed offenses under the law, for example, criminal offenses in connection with a public contract, violation of an antitrust statute relating to bids, theft, forgery, false statements or obstruction of justice.

Responses to Legislative Council Rules Clearinghouse Recommendations:

A copy of the Clearinghouse Report is attached. All recommendations have been incorporated into the rule. In response to the Council's questions:

Clearinghouse Report 5.f.: To what does the phrase "the contract termination date" refer in s. Adm 24.03(2)(d)?" It appears that a debarment may occur outside the existence of a current contract.

RESPONSE: The language has been amended so that it is clear that it is effective only during the term of the contract.

Clearinghouse Report 5.g.: In Adm 24.04(1)(b) and 24.02(3), what does the phrase "legal authorities" mean?

RESPONSE: It was intended to mean any other legal authorization. The word "authorities" has been changed to "authority."

Clearinghouse Report #5.j.: In s. Adm 24.05(2)(c) and 24.06(2)(c), what is the meaning of the phrase "affects the responsibility of a contractor or subcontractor"?

RESPONSE: These sections were amended to clarify that any actions or causes that affect the ability of the contractor or subcontractor to meet all contract requirements may be causes for debarment or suspension.

Clearinghouse Report #5.m.: In s. Adm 24.05(5)(a), if a suspension is in effect, when must the debarment decision be made?"

REPONSE: The suspension and debarment actions are intended to be two separate procedures with separate time limits. Even if a contractor is suspended under the rule, a debarment action would start a new proceeding with new time limits.

Public Hearing and List of Persons Who Appeared or Registered at Public Hearing:

A public hearing was held on the proposed rule in Madison on June 30, 2010. A transcript of the public hearing is attached.

The following persons appeared/registered at the hearing for informational purposes only:

John Mielke, Associated Builders and Contractors of Wisconsin
Kevin Reid-Rice, Department of Corrections
Sharon Blattner-Held, Department of Administration

Summary of Public Comment (testimony) and Agency Response:

No testimony was provided at the hearing, however, the Department entered into a question and answer session with the parties who were present.

Summary of Written Comments and Agency Response:

No written comments were received by the Department at the public hearing or via the Administrative Rules website.

Reference of applicable forms:

No new or revised forms are required by these rules.

Final Regulatory Flexibility Analysis:

A final regulatory flexibility analysis is not required because the rule will not have a significant economic impact on a substantial number of small businesses as defined in s. 227.1141), Stats.