

**CITY OF CHICAGO DEPARTMENT OF PROCUREMENT SERVICES
("DEPARTMENT") SUPPLEMENTAL RULES OF PROCEDURE FOR
CONTESTED DEBARMENT HEARINGS BEFORE THE CITY OF CHICAGO
DEPARTMENT OF ADMINISTRATIVE HEARINGS**

I. Scope

- A. The Department's Debarment Rules ("Debarment Rules") provide that the Department's Chief Procurement Officer ("CPO") may determine that in-person debarment hearings ("Hearings") may be conducted in connection with Notice of Debarment proceedings. The conduct of such Hearings is regulated generally by Paragraph 7.05(h) of the Debarment Rules. In particular, Paragraph 7.05(h)(1) authorizes the CPO to designate an official to conduct such Hearings and prepare written findings of fact. The CPO may elect to designate the City of Chicago Department of Administrative Hearings ("DOAH") to conduct Hearings as authorized by Paragraph 7.05(h)(1) of the Debarment Rules. These Supplemental Rules are intended to supplement the Debarment Rules in those cases where DOAH has been designated by the CPO to conduct debarment Hearings.
- B. These Supplemental Rules are governed by the Debarment Rules, including but not limited to the definitions in Section III of the Debarment Rules.
- C. In addition to the Debarment Rules and these Supplemental Rules, DOAH's Rules and Regulations apply to the conduct of Hearings to the extent not in conflict with these Supplemental Rules. However, but without limiting the foregoing, the following provisions of DOAH's Rules and Regulations shall not apply to debarment hearings: Sections 3.1, 6.1 (last sentence), 9.2 (last sentence), 9.3 (first sentence), 9.5, 9.6, and Chapters 10 and 11.

II. Service of Documents

- A. All filings required or permitted under these Supplemental Rules shall be presented to DOAH, Municipal Hearings Division, 740 North Sedgwick Street, 2nd Floor, Chicago, Illinois, 60654, either in-person during normal business hours or by United States First Class Mail, or by a reputable, established express carrier.
- B. All pleadings, motions, briefs, memoranda, orders and notices shall be served as required by the Debarment Rules on the addressee either in person, by United States First Class Mail, or by a reputable, established express carrier at the addressee's last known address. Proof of Service shall be filed when service is required.

III. Commencement of Hearing and Scheduling

- A. Upon the CPO's decision to designate DOAH to conduct a Hearing under Paragraph 7.05(h)(1) of the Debarment Rules, the Department of Procurement Services' Administrative Contact shall transmit the CPO's Hearing designation to DOAH to schedule and conduct a Hearing consistent with the requirements of Paragraph 7.05(h) of the Debarment Rules. In its Hearing designation to DOAH, the CPO may specifically identify and limit the nature and scope of the Hearing to be conducted, including a limitation on the issues, witnesses, and documents to be considered.
- B. In addition to and along with its transmittal of the Hearing designation described in Subparagraph III(A) above, the Department's Administrative Contact shall also transmit to DOAH complete copies of (i) the Notice of Proposed Debarment, (ii) documents made available to the vendor pursuant to Paragraph 7.05(c) of the Debarment Rules, (iii) all correspondence, notices, requests for information, and documentation related to service of documents before the Department; (iv) all written submissions, motions, and other documents submitted to the Department by the parties, including requests for oral hearings and related documents; (v) any official decisions made by the Department or the CPO in connection with the debarment proceedings, (vi) any Inspector General reports and related investigation documents generated in connection with the issues giving rise to the debarment proceedings, (vii) other documents contained in the Department's administrative record as may be designated by the CPO; and (viii) any other materials submitted pursuant to the Debarment Rules.
- C. Upon receipt of the CPO's designation under Section 3(A), DOAH shall assign an Administrative Law Judge ("ALJ") to act as the CPO's designee to conduct the Hearing.

IV. Powers and Duties of the Administrative Law Judge

- A. During the period of the referral, the ALJ shall (i) act on behalf of the CPO and (ii) exercise the discretion and functions of the CPO and the Department's Administrative Contact in conducting the hearing under Paragraphs 7.05(h), and 7.06, of the Debarment Rules.
- B. The ALJ shall conduct Hearings consistent with the Debarment Rules, these Supplemental Rules, and the CPO's Hearing designation. The ALJ may examine documents presented as evidence by the parties, administer oaths, take testimony, make rulings on the admissibility of evidence, or

take any other action as may be required for the fair and expeditious conduct of the hearing.

V. Case Management Conference(s)

- A. Within thirty (30) calendar days of receipt of the CPO's Hearing designation, the ALJ shall schedule an initial Case Management Conference to be conducted at a location determined by the ALJ.
- B. An attorney/representative of each party who has knowledge of the case shall appear at this conference, unless the ALJ allows for such participation by telephone. The parties should be prepared to discuss the nature of the case and the issues that are the subject of the Hearing. At the Case Management Conference, the ALJ will set a schedule and a date for a Pre-Hearing Conference.
- C. The ALJ may hold additional case management conferences in-person or by telephone as the ALJ may determine necessary or at the request of one or more of the parties.

VI. Pre-Hearing Conference

- A. At the Pre-Hearing Conference, the parties shall advise the ALJ of the status of the case, and a final Hearing date and location shall be set. The attorneys/representatives who will present the case at the Hearing shall appear at the Pre-Hearing Conference unless the ALJ allows an appearance by telephone.
- B.
 - (1) At the Pre-Hearing Conference, the parties will identify the issues, witnesses, and document(s)/exhibit(s) each side intends to use at the Hearing.
 - (2) The parties' evidence may be limited to those issues and witnesses that were identified in the initial request for oral hearing or the CPO's Hearing referral to DOAH, as well as documents/exhibit(s) previously made a part of the administrative record.
 - (3) The ALJ upon a showing of good cause may consider issues or witnesses not identified either in the request for oral hearing or the CPO's Hearing designation.
 - (4) For good cause shown, the ALJ may allow the use of documents/exhibits at the Hearing that were not previously made part of the administrative record and may allow the opposing party to comment upon the proposed new document(s)/exhibit(s).

- C. The Hearing will be scheduled no later than forty-five (45) business days from the date of the Pre-Hearing Conference. Pursuant to Paragraph 7.05(h)(2), not less than five (5) business days prior to the Hearing, the parties shall disclose to each other and to the ALJ the names of attendees under their control who will attend the Hearing, identify which attendees are witnesses, and update any changes of the intended document(s)/exhibit(s) to be used at the Hearing.

VII. Discovery

There shall be no discovery allowed in connection with the Hearing other than as provided for in the Debarment Rules.

VIII. Pre-Hearing Motions

- A. Except for motions for continuances or with the approval of the ALJ, all motions shall be filed with DOAH not less than ten (10) business days before the scheduled hearing date. All motions shall be in writing and proof of service on the opposing party shall accompany each motion.
- B. The briefing schedule, if any, and ruling on the motion shall be scheduled at the discretion of the ALJ.
- C. Motions for continuance may be granted at the discretion of the ALJ under the terms and procedures found in Paragraph 7.06 of the Debarment Rules.
- D. Except for motions for continuance or similar motions unrelated to the conduct, content, or issues of the Hearing, the ALJ shall rule on any pre-hearing motions at least five (5) business days prior to the in-person hearing date.

IX. Final Hearing

- A. The proceedings before the ALJ shall be governed by applicable law, the Department's Rules and Regulations, the Debarment Rules, these Supplemental Rules, and applicable DOAH Rules.
- B. The ALJ is not bound by technical rules of evidence, but shall conduct the proceeding in accord with Paragraph 7.05(h)(3) of the Debarment Rules, and elementary principles of fundamental fairness and due process. All materials contained in the administrative record transmitted by the Department's Administrative Contact to DOAH along with the Hearing designation as identified in Section III(B) above shall be deemed admissible, admitted as evidence at the Hearing, and considered by the ALJ. Notwithstanding anything to the contrary herein, the Inspector

General reports and related investigation documents shall not be deemed to contain the “statement of a witness” as that term is used in Section 7.05(h)(5) of the Debarment Rules.

- C. Within sixty (60) business days after the hearing has concluded or after any post-hearing submissions, which must be filed within five (5) business days after the hearing has concluded, the ALJ shall issue a written recommendation to the CPO in the form of Findings of Fact to be considered by the CPO.
- D. The ALJ’s recommended Findings of Fact are not binding on the CPO, who retains the right to review all substantive and evidentiary rulings, decisions, findings, or other actions taken by the ALJ. The CPO also may reject the ALJ’s Findings of Fact to the extent the CPO determines that any such finding or findings were arbitrary, capricious, or clearly erroneous.
- E. If a respondent or his or her representative fails to appear or participate in the Hearing, the ALJ shall make a finding to that effect, and DOAH shall transmit the administrative record and the ALJ’s default finding back to the CPO for final ruling.

X. Receipt of Report

- A. At any time after receipt of the Findings of Fact, but prior to rendering a final decision, the CPO may return this matter to DOAH for assignment to the same or a new ALJ for further Hearing.
- B. Any return for additional proceedings will specify the matters for further Hearing. In addition, any such Hearing shall be conducted in accordance with the Debarment Rules and these Supplemental Rules, as the ALJ may determine is practicable.

XI. Return of the Record

- A. Contemporaneously with, or not later than fifteen (15) business days after the submission of the Findings of Fact, DOAH shall return the entire administrative record to the Department’s Administrative Contact, including but not limited to any documents received by the ALJ in connection with the Hearing, along with a copy of any audio recordings or transcriptions made of the Hearing.
- B. DOAH shall retain in its files, consistent with its document retention policy, a complete copy of the entire record as it exists as of the date of the return of the record to the CPO.