

**§ 101-40.306-3 Distribution.**

Each agency receiving rate tenders shall promptly submit one signed copy to the National Capital Region (NCR) office listed in §101-40.101-1(a) and two copies (including at least one signed copy) to the General Services Administration, Office of Transportation Audits (FW), Washington, DC 20405.

[51 FR 24337, July 3, 1986]

**§ 101-40.306-4 Bill of lading endorsements.**

To ensure application of Government rate tenders to all shipments qualifying for their use, bills of lading covering the shipments shall be endorsed with the applicable tender or quotation number and carrier identification; e.g., "Section 10721 quotation, ABC Transportation Company, Tender I.C.C. No. 143." In addition, where commercial bills of lading are used rather than Government bills of lading, the commercial bills of lading shall be endorsed in conformance with the provisions set forth in §101-40.306-2(a). (For specific regulations covering transportation generated under cost-reimbursement type contracts, see 48 CFR 47.104-3.)

[52 FR 21034, June 4, 1987]

**Subpart 101-40.4—Temporary Nonuse, Debarment, and Suspension of Carriers****§ 101-40.400 Scope of subpart.**

This subpart prescribes:

(a) Policies and procedures governing the temporary nonuse, debarment, and suspension of commercial carriers transporting freight or household goods for the account of civilian executive agencies;

(b) Provisions for the listing of temporary nonuse, debarred, or suspended carriers; and

(c) Treatment to be accorded carriers which are placed in temporary nonuse, debarred, or suspended status.

[51 FR 24337, July 3, 1986]

**§ 101-40.401 Policy.**

(a) Executive agencies shall obtain transportation services from responsible commercial carriers providing

consistent and satisfactory service to meet an agency's needs. Temporary nonuse, debarment, and suspension are discretionary actions which, when taken in accordance with this subpart, are appropriate means to implement this policy.

(b) The Federal Acquisition Regulation (FAR), codified at 48 CFR subpart 9.4, implements on a Government-wide basis the uniform policies and procedures governing the debarment and suspension of Government contractors, promulgated by the Office of Federal Procurement Policy (OFPP), Office of Management and Budget, in Policy Letter 82-1, issued June 24, 1982 (47 FR 28854, July 1, 1982), and shall apply to contracts for transportation (including bills of lading). A Government bill of lading (GBL) is a contract for transportation services. (See 41 CFR 101-41.302-2(a)(1).) A commercial bill of lading is also a contract for transportation services.

(c) Temporary nonuse is not governed by OFPP Policy Letter 82-1 since temporary nonuse does not have Government-wide effect and may be initiated by agency transportation officers. Debarment and suspension, however, shall only be imposed by the designated official specified in this subpart.

(d) Debarment or suspension of a carrier precludes the executive agency, including the Department of Defense, from awarding such carrier a contract for transportation.

(e) Agencies shall establish appropriate procedures to implement the policies and procedures of this subpart.

[51 FR 24337, July 3, 1986]

**§ 101-40.402 General.**

(a) Temporary nonuse may be imposed by an authorized agency transportation officer for the causes set forth in §101-40.408-2. This action should be taken when a carrier's failure to provide adequate service indicates that the carrier's continued participation poses a risk to effective operation of agency transportation programs. Temporary nonuse is a localized program response to service failures which the carrier can readily correct during a period of limited exclusion.

(b) Debarment is designed to protect the Government by excluding a carrier

for a specified period of time following completion of an investigation or legal proceeding. A carrier may be debarred for willful and/or persistent service failures or if the agency's debarring official determines that a Government-wide exclusion of the carrier is necessary to ensure the integrity of Government transportation programs. The agency's transportation officer shall refer carriers to the agency's debarring official in accordance with 48 CFR 9.406, if the carrier has willfully and/or persistently failed to comply with its contractual obligations under the terms and conditions of any contract for transportation. Referrals for criminal and/or civil fraud prosecutions should be made by the agency's Inspector General or an equivalent official.

(c) Suspension is designed to protect the Government pending the outcome of a legal proceeding or investigation concerning criminal activity, civil fraud, or antitrust violations concerning contractual relations with the Government. When the agency transportation officer suspects that a carrier has engaged in such conduct, the matter should be referred to the agency's Inspector General or an equivalent official.

[51 FR 24337, July 3, 1986, as amended at 52 FR 21034, June 4, 1987]

**§ 101-40.403 Definitions.**

(a) *Affiliates* means carriers or individuals if, directly or indirectly—

(1) Either one controls or can control the other, or

(2) A third party controls or can control both.

(b) *Agency* means executive agencies unless otherwise noted.

(c) *Consolidated list* means the list compiled, maintained, and distributed by GSA under 48 CFR 9.404 to identify Government contractors debarred or suspended. For the purpose of implementing the provisions of this subpart, the contractor listing shall also include debarred or suspended commercial carriers.

(d) *Carrier* means any individual or other legal entity authorized to transport freight or household goods under a certificate, license, or permit issued by a Federal, State, or local regulatory body.

(e) *Contract for transportation* means a GBL, commercial bill of lading, purchase order, rate tender, or any other instrument establishing binding obligations on the Government to purchase, and the carrier to provide, transportation services.

(f) *Conviction* means a judgment or conviction of a criminal offense by any court of competent jurisdiction whether entered upon a verdict or plea, and includes a conviction entered upon a plea of *nolo contendere*.

(g) *Debarment* means action taken by a debarring official under 48 CFR 9.406 to exclude a carrier for a specified period of time from receiving on a Government-wide basis any type of contract for transportation.

(h) *Debarring official* means the head of an agency or an official authorized under 48 CFR 9.403 by the head of an agency to impose debarment.

(i) *Indictment* means indictment for a criminal offense. Any information or other filing by competent authority charging criminal offense shall be given the same effect as an indictment.

(j) *Legal proceeding* means any civil judicial proceeding to which the Government is a party or any criminal proceeding. The term includes appeals from such proceedings.

(k) *Reviewing official* generally means the transportation officer's immediate supervisor. Agencies may designate other personnel as reviewing officials for the purpose of reviewing decisions to place carriers in temporary nonuse status provided such designations are consistent with the individual's current duties and responsibilities.

(l) *Suspending official* means the head of an agency or an official authorized under 48 CFR 9.403 by the head of an agency to impose suspension.

(m) *Suspension* means action taken by a suspending official under 48 CFR 9.407 to disqualify a carrier temporarily on a Government-wide basis from receiving any contracts for transportation; a carrier so disqualified is "suspended."

(n) *Temporary nonuse* means action taken by a transportation officer under § 101-40.408 to exclude a carrier for a specified period of time from participating in shipments of freight or household goods under tariffs, rate