



Food and
Nutrition
Service

Retailer Policy and Management Division, SNAP
Policy Memorandum 2018-06
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SUBJECT: Retailer Eligibility- Debarment of Disqualified Firms

Legislation/Authority: Executive Order 12549; 7 USC 2209(j)

Regulation(s): 2 CFR §180; 2 CFR § 417

Departmental Directive: USDA Departmental Regulation 2280001

Rule(s): N/A

IMPLEMENTATION DATE: Upon Publication

OVERVIEW: The purpose of this policy memorandum is to provide guidance regarding the criteria for initiating government-wide debarment actions against retail firms that have been disqualified from the Supplemental Nutrition Assistance Program (SNAP). This memorandum also addresses what actions the Food and Nutrition Service (FNS) should take if an authorized or applying retail firm or any of its owners are found to have been debarred from non-procurement programs and activities by another Federal agency in accordance with the Office of Management and Budget (OMB) guidelines as found in 2 CFR Parts 180 and 417.

Criteria for Debarment

Executive Order 12549 requires that all Federal agencies participate in a system for debarment and suspension from programs and activities involving Federal financial and nonfinancial assistance and benefits. It is intended that suspension or debarment of a participant in a program by one agency have government-wide effect. The causes for debarment are described in 2 CFR § 180.800, and include conviction (whether by verdict or guilty plea) for crimes such as fraud, forgery, or any other offense indicating a lack of business integrity or honesty that seriously affects present responsibility.

For FNS purposes, SNAP violations that result in felony convictions are generally those that meet the criteria in 2 CFR § 180.800; these are SNAP violations that are investigated by the United States Department of Agriculture (USDA) Office of the Inspector General (OIG) and prosecuted by an office of the U.S. Attorney. FNS can initiate administrative action in accordance with this policy memorandum and 2 CFR parts 180 and 417.

The contents of this document do not have the force and effect of law and are not meant to bind the public or FNS in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

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Therefore, FNS shall:

- 1) Initiate non-procurement debarment actions against persons who have been criminally convicted of Federal or State felonies involving SNAP violations valuing \$250,000 or more that were committed while authorized to participate in SNAP. Such actions will be taken when FNS is made aware by USDA OIG of a felony conviction for SNAP violations and OIG provides information that allows FNS to substantiate that the person in question is the same person who is currently participating as a SNAP retailer.

In addition, OIG will provide evidence, based on documentation of an audit of the stores' inventory and sales records, to substantiate SNAP violations that have a value of \$250,000 or more.

- 2) Initiate consideration of undertaking non-procurement debarment actions against the most egregious currently participating SNAP retailers who have been convicted of a non-felony crime involving SNAP and Special Supplemental Nutrition Assistance Program for Women, Infants, and Children violations. In addition, OIG will provide evidence, based on documentation of an audit of the stores' inventory and sales records, to substantiate SNAP violations that have a value of \$250,000 or more.
- 3) Submit for inclusion on the System for Award Management (SAM) website (www.sam.gov) names and pertinent information for any debarred persons. SAM is maintained by the General Services Administration and contains the names and other information about persons who are ineligible to conduct business with the Federal Government.

Generally, persons who have been permanently disqualified for trafficking SNAP benefits, but have not been criminally convicted will not be subject to debarment proceedings.

Authorized or Applying Firms That Are Debarred

Firms included on the SAM website as a result of having been debarred through proceedings initiated by another Federal agency are not permitted to participate as an authorized firm in SNAP. In accordance with 2 CFR § 180.865(a), the period of debarment is based on the seriousness of the cause(s) upon which the debarment is based. Generally, debarment should not exceed 3 years. However, if circumstances warrant, a longer period of debarment may be imposed. In addition, 2 CFR § 417.865(d) generally requires that a firm who is convicted of a felony for knowingly defrauding the United States in connection with any program administered by USDA be permanently debarred from participating in any USDA program.¹

¹ While the permanent debarment provision exempts individuals applying for and receiving USDA domestic food assistance program benefits, the permanent debarment does apply to SNAP authorized retailers.

FNS may deny any applicant currently listed in SAM if the listing is intended to have government-wide effect, in accordance with SNAP provisions at 7 CFR § 278.1(b)(3).

FNS will consider the applications of firms that apply for SNAP participation following removal from SAM due to the expiration of a debarment. However, the violations that led to the debarment, may result in FNS' denial of the application, in accordance with 7 CFR 278.1(b)(3), if the firm is found to lack the necessary business integrity to participate in SNAP.

Firms that are authorized at the time FNS becomes aware of another agency's suspension or debarment actions against the firm must be withdrawn from program participation for a period of time in accordance with 7 CFR § 278.1(l)(1)(iv) and 7 CFR § 278.1(k)(3), noting the suspension or government-wide debarment as the reason for withdrawal.

Any questions regarding this policy should be directed to: SM.FN.RPMDHQ-WEB@usda.gov.

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