

§ 102-117.280 What aspects of the TSP's performance are important to measure?

Important TSP performance measures may include, but are not limited to the:

- (a) TSP's percentage of on-time deliveries;
- (b) Percentage of shipments that include overcharges or undercharges;
- (c) Percentage of claims received in a given period;
- (d) Percentage of returns received on-time;
- (e) Percentage of shipments rejected;
- (f) Percentage of billing improprieties;
- (g) Average response time on tracing shipments;
- (h) TSP's safety record (accidents, losses, damages or misdirected shipments) as a percentage of all shipments;
- (i) TSP's driving record (accidents, traffic tickets and driving complaints) as a percentage of shipments; and
- (j) Percentage of customer satisfaction reports on carrier performance.

§ 102-117.285 What are my choices if a TSP's performance is not satisfactory?

You may choose to place a TSP in temporary nonuse, suspension, or debarment if performance is unsatisfactory.

§ 102-117.290 What is the difference between temporary nonuse, suspension and debarment?

(a) Temporary nonuse is limited to your agency and initiated by the agency transportation officers for a period not to exceed 90 days for:

- (1) Willful violations of the terms of the rate tender;
- (2) Persistent or willful failure to meet requested packing and pickup service;
- (3) Failure to meet required delivery dates;
- (4) Violation of Department of Transportation (DOT) hazardous material regulations;
- (5) Mishandling of freight, damaged or missing transportation seals, improper loading, blocking, packing or bracing of property;
- (6) Improper routing of property;

(7) Subjecting your shipments to unlawful seizure or detention by failing to pay debts;

(8) Operating without legal authority;

(9) Failure to settle claims according to Government regulations; or

(10) Repeated failure to comply with regulations of DOT, Surface Transportation Board, State or local governments or other Government agencies.

(b) Suspension is disqualifying a TSP from receiving orders for certain services under a contract or rate tender pending an investigation or legal proceeding. A TSP may be suspended on adequate evidence of:

(1) Fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a contract for transportation;

(2) Violation of Federal or State anti-trust statutes;

(3) Embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and

(4) Any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of the TSP as a transporter of the Government's property or the HHG of its employees relocated for the Government.

(c) Debarment means action taken to exclude a contractor from contracting with all Federal agencies. The seriousness of the TSP's acts or omissions and the mitigating factors must be considered in making any debarment decisions. A TSP may be debarred for the following reasons:

(1) Failure of a TSP to take the necessary corrective actions within the period of temporary nonuse; or

(2) Conviction of or civil judgment for any of the causes for suspension.

§ 102-117.295 Who makes the decisions on temporary nonuse, suspension and debarment?

(a) The transportation officer may place a TSP in temporary nonuse for a period not to exceed 90 days.

(b) The serious nature of suspension and debarment requires that these sanctions be imposed only in the public

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interest for the Government's protection and not for purposes of punishment. Only the agency head or his/her designee may suspend or debar a TSP.

§ 102-117.300 Do the decisions on temporary nonuse, suspension and debarment go beyond the agency?

(a) Temporary nonuse does not go beyond the agency.

(b) GSA compiles and maintains a current list of all suspended or debarred TSPs and periodically distributes the list to all agencies and the General Accounting Office.

§ 102-117.305 Where do I go for information on the process for suspending or debarring a TSP?

Refer to the Federal Acquisition Regulation (48 CFR part 9, subpart 9.4) for policies and procedures governing suspension and debarment of a TSP.

§ 102-117.310 What records must I keep on temporary nonuse, suspension or debarment of a TSP?

(a) You must set up a program consistent with your agency's internal record retention procedures to document the placement of TSPs in a nonuse, suspended or debarred status.

(b) For temporary nonuse, your records must contain the following information:

(1) Name, address, and Standard Carrier Alpha Code and Taxpayer Identification Number of each TSP placed in temporary nonuse status;

(2) The duration of the temporary nonuse status;

(3) The cause for imposing temporary nonuse, and the facts showing the existence of such a cause;

(4) Information and arguments in opposition to the temporary nonuse period sent by the TSP or its representative; and

(5) The reviewing official's determination about keeping or removing temporary nonuse status.

(c) For suspended or debarred TSPs, your records must include the same information as paragraph (b) of this section and you must:

(1) Assure your agency does not award contracts to a suspended or debarred TSP; and

(2) Notify GSA (see § 102-117.315).

§ 102-117.315 Who must I notify on suspension or debarment of a TSP?

Agencies must report monthly any suspension or debarment actions to:

General Services Administration
Office of Acquisition Policy (MV)
1800 F Street, NW.
Washington, DC 20405
<http://www.epls.arnet.gov>

Subpart J—Representation Before Regulatory Body Proceedings

§ 102-117.320 What is a transportation regulatory body proceeding?

A transportation regulatory body proceeding is a hearing before a transportation governing entity, such as a State public utility commission, the Surface Transportation Board, or the Federal Maritime Commission. The proceeding may be at the Federal or State level depending on the activity regulated.

§ 102-117.325 May my agency appear on its own behalf before a transportation regulatory body proceeding?

Generally, no executive agency may appear on its own behalf in any proceeding before a transportation regulatory body, unless the Administrator of General Services delegates the authority to the agency. The statutory authority for the Administrator of General Services to participate in regulatory proceedings on behalf of all Federal agencies is in section 201(a)(4) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 481(a)(4)).

§ 102-117.330 When, or under what circumstances, would GSA delegate authority to an agency to appear on its own behalf before a transportation regulatory body proceeding?

GSA will delegate authority when it does not have the expertise, or when it is outside of GSA's purview, to make a determination on an issue such as a protest of rates, routings or excessive charges.

§ 102-117.335 How does my agency ask for a delegation to represent itself in a regulatory body proceeding?

You must send your request for delegation with enough detail to explain