



ADMINISTRATIVE RULES OF MONTANA



18.3.102 DEFINITIONS

The following definitions shall apply for the purpose of these rules:

- (1) "Adequate evidence" means information sufficient to support the reasonable belief that a particular act or omission

has occurred.
- (2) "Administrator" is an administrator of a division of

the Montana department of transportation.
- (3) "Commission" is the Montana transportation commission.
- (4) "Convicted" means any finding of guilt of an offense, whether after a trial or upon a plea of guilty or nolo contendere (or any equivalent) in any court in the United States, whether or not it is pending appeal. A conviction ceases to be a conviction only when it is later reversed by a court of competent jurisdiction.
- (5) "Debarment" is an action taken or decision made by an agency, other than temporary determinations of nonresponsibility or suspension, that excludes a person from bidding on or participating in projects and contracts. Debarment or suspension of a person under these rules constitutes debarment or suspension of all its divisions and other organizational elements.
- (6) "Department", unless obviously referring to another agency, is the Montana department of transportation.
- (7) "Director" is the director of the Montana department of transportation.
- (8) "Notice" is written communication served in person or sent by certified mail, return receipt requested or equivalent, to the last known address of a person, its identified counsel, its agent for service of process, its then-listed corporate agent, or any partner, officer, director, owner, or joint venturer of the party. Notice, if returned by the U.S. postal service as being undeliverable by mail, shall be considered to have been received by the addressee five days after being properly sent to the last address known to the department. It is the responsibility of persons doing business with the department to provide current, accurate mailing addresses.
- (9) "Participating" in a department project means a person performing any work in any capacity (e.g., prime contractor, subcontractor, sub-subcontractor, clearing rights-of-way for utilities, designer, consultant, etc.) , or providing any equipment, labor, services, or materials to be used in the project.

- (10) "Person" is any individual, corporation, partnership, firm, association or other legal entity, however organized.
- (11) "State" applies to any of the United States and the District of Columbia, unless by its use in these rules it clearly is limited only to Montana.
- (12) "Suspension" is a temporary exclusion of a person from bidding on or participating in contracts, work or projects during the period pending completion of any investigation into, and the initiation and completion of, possible debarment proceedings as may ensue. It is a discretionary administrative decision by the director, and is appealable only to the commission under the procedures stated in ARM 18.3.106.

Authorizing statute(s): 60-2-201 and 60-3-101, MCA

Implementing statute(s): 60-2-111, 60-2-112, and 60-2-201, MCA

History: NEW, 1996 MAR p. 3133, Eff. 12/6/96; AMD, 2001 MAR p. 978, Eff. 6/8/01.