



Debarment Regulations

1. PURPOSE

The purpose of these regulations is to set forth the process for debarring contractors, as required by Chapter 15, Article VII of the City of Houston Code of Ordinances (City Code). Department directors or designees may request that the Chief Procurement Officer (CPO) debar a contractor when circumstances warrant.

2. SCOPE

These regulations apply to all contracts entered into by the City, including those made pursuant to competitive procedures, cooperative purchases, interlocal agreements, or an exception to the competitive procurement requirements. These regulations apply to contracts approved by city council and to contracts that do not require city council approval.

3. DEFINITIONS

Contractor: has the meaning set forth in Section 15-101 of the City Code.

Debarment: an action taken by the City to exclude a contractor from providing goods or services to the City for a specified period of time.

Responsible contractor: has the meaning set forth in Administrative Policy 5-7.

4. CAUSES FOR DEBARMENT

4.1 Causes for potential debarment are described in Chapter 15 Article VII, of the Code.

4.2 Factors to be considered in debarment proceedings

The CPO may, in the best interest of the City, debar a contractor for any of the causes set forth in Chapter 15, Article VII, of the City Code. Although cause for debarment may exist, the CPO may consider mitigating factors before making any debarment decision, including but not limited to one or more of the following factors:

4.2.1 Whether the contractor brought the activity cited as a cause for debarment to the attention of the appropriate City department in a timely manner;

- 4.2.2 Whether the contractor has fully investigated the circumstances surrounding the cause for debarment, and if so, made the result of the investigation available to the CPO or other City investigative personnel;
- 4.2.3 Whether the contractor has reasonably cooperated with all City departments during any and all investigations or administrative action conducted by the City;
- 4.2.4 Whether the contractor has paid or agreed to pay any and all criminal, civil, and/or administrative fines or penalties for the improper activity;
- 4.2.5 Whether the contractor has taken appropriate disciplinary action against the individual(s) responsible for the activity constituting the cause for debarment;
- 4.2.6 Whether the contractor has implemented or agreed to implement remedial measures, including any identified by the City;
- 4.2.7 Whether the contractor has instituted or agreed to institute new or revised review and control procedures and ethics training programs, if applicable;
- 4.2.8 Whether the contractor has had adequate time to eliminate the circumstances within the organization that led to the cause for debarment;
- 4.2.9 Whether the contractor's management recognizes and understands the seriousness of the issues giving rise to the cause for debarment; and
- 4.2.10 Other relevant circumstances.

The presence of any mitigating factors such as those set forth above does not automatically lead to the conclusion that the contractor should not be debarred. The contractor has the burden of demonstrating to the CPO that debarment is not warranted based on one or more mitigating factors.

5. ROLES AND RESPONSIBILITIES

5.1 Chief Procurement Officer

- 5.1.1 Receives referrals regarding debarment from department directors or elected city officials;
- 5.1.2 Shall appoint an impartial individual to investigate debarment referrals; and
- 5.1.3 May take other actions detailed in section 15-104(c) and (d) of the City Code .

5.2 Department Directors or Designees

- 5.2.1 Shall ensure that contractor performance is evaluated regularly, as required by AP 5-13, and that performance issues are documented.
- 5.2.2 May refer a contractor to the CPO to determine whether debarment is appropriate for the reasons set forth in section 15-103 of the City Code.

6. PROCEDURES

6.1 Investigation

- 6.1.1 Upon receipt of a written referral of debarment, the CPO shall assign an impartial investigator to review the allegations.

6.1.1.1 The investigator shall be:

- 6.1.1.1.1 A city employee with procurement expertise who has not been involved with the contractor that is the subject of the referral; or

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6.1.1.1.2 Outside parties such as auditors, consultants, lawyers or others with expertise in procurement.

6.1.2 Unless otherwise approved by the CPO, the investigator shall have no more than 30 days to complete the investigation and deliver a report to the CPO.

6.2 Decision of the CPO

6.2.1 If the CPO determines that there is no cause for debarment, he or she shall deny the referral and notify the contractor and the relevant department accordingly.

6.2.2 If the CPO finds that the contractor's conduct was improper but does not warrant full debarment, the CPO may impose a lesser sanction, such as partial debarment or a finding of non-responsibility.

6.2.3 If the CPO decides that debarment is warranted, he or she shall issue a notice of debarment that includes:

6.2.3.1 The basic facts and reasons for the debarment, in sufficient detail to put the contractor on notice of the conduct or transactions upon which the decision is based;

6.2.3.2 The period of debarment, which may be up to five years;

6.2.3.3 The effect of the debarment on the contractor's existing contracts with the City;

6.2.3.4 The effect of the debarment on the contractor's eligibility to act as a subcontractor or supplier on any existing and/or future contracts with other city contractors; and

6.2.4 Notice that, within 14 days after the date of the Notice of Debarment, the contractor may request a hearing before the contract compliance commission as set forth in Section 15-105 of the City Code.

6.2.5 Notice of debarment shall be made by regular U.S. Mail, return receipt requested, and by email, if an email address is available for the contractor.

7. EFFECT OF NOTICE OF DEBARMENT

From the date a decision to debar becomes final by virtue of exhausting appeals or failing to timely appeal, the contractor is prohibited from bidding on any city work. Any response to a procurement by a debarred contractor will be deemed non-responsible and removed from the process.

Any appeal of the Notice of Debarment shall stay the effect and the contractor may continue to participate in city procurements

8. APPEALS

Debarred contractors are entitled to the appeals set forth in Section 15-105 and 15-106 of the City Code.

9. PERIOD OF DEBARMENT

9.1 The period of debarment shall be for a stated period of time.

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- 9.2 A debarred contractor may petition for reinstatement after one-half the period of debarment has passed by making written request to the CPO pursuant to these regulations. Any such petition shall include one or more of the following:
- 9.2.1 Newly discovered material evidence;
 - 9.2.2 Reversal of a conviction or judgment on which the debarment was based; or
 - 9.2.3 Bona fide change in ownership or control of the entity or other mitigating factors which, in the judgment of the CPO, remove the conditions giving rise to the debarment. Mitigating factors may include, without limitation, disciplinary action against all persons responsible for the acts giving rise to the debarment or other ineligibility, remedial action designed to prevent a recurrence of the acts giving rise to the ineligibility, or a determination by the CPO that the past conduct of the entity does not indicate a pattern or history of similar acts.
 - 9.2.4 A debarred contractor may petition for reinstatement after one-half the period of debarment has passed by making written request to the CPO pursuant to the debarment regulations promulgated by the CPO.
- 9.3 A written request for reduction or cancellation of a debarment shall include:
- 9.3.1 The specific bases for the request, including supporting documentation;
 - 9.3.2 The oath of the applicant, attesting that the statements are true and correct; and
 - 9.3.3 The signature of the applicant.



Jedediah Greenfield
Chief Procurement Officer

4/10/23
Date

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