

CHAPTER 2 - ADMINISTRATION

Sec. 2-321.1. Authority to Debar or Suspend.

(1) *Authority.* After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Materials Manager, after consultation with the City Attorney's Office, shall have authority to debar a person for cause from consideration for award of contracts. The debarment shall not be for a period of more than three years. The same officer, after consultation with the City Attorney's Office, shall have authority to suspend a person from consideration for award of contracts if there is probable cause for debarment. The suspension shall not be for a period exceeding twelve months. The authority to debar or suspend shall be exercised in accordance with regulations or procurement guidelines.

(2) *Causes for Debarment or Suspension.* The causes for debarment or suspension include the following:

- (a) conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
- (b) conviction under State or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a city contractor;
- (c) conviction under state or federal antitrust statutes arising out of the submission of bids or proposals,
- (d) violation of contract provisions, as set forth below, of a character which is regarded by the Materials Manager to be so serious as to justify debarment action:
 - (i) deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - (ii) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;
- (e) any other cause the Materials Manager determines to be so serious and compelling as to affect responsibility as a city contractor, including debarment by another governmental entity for any cause listed in regulations; and
- (f) for violation of the ethical standards set forth in this code (Ethics in Public Contracting).

(3) *Decision.* The Materials Manager shall issue a written decision to debar or suspend.

The decision shall:

- (a) state the reasons for the action taken; and

CHAPTER 2 - ADMINISTRATION

- (b) inform the debarred or suspended person involved of its rights to judicial or administrative review as provided in this code.
- (4) *Notice of Decision.* A copy of the decision under Subsection (3) of this Section shall be mailed or otherwise furnished immediately to the debarred or suspended person and any other party intervening.
- (5) *Finality of Decision.* A decision under Subsection (3) of this Section shall be final and conclusive, unless fraudulent, or
 - (a) the debarred or suspended person commences an action in court or
 - (b) the debarred or suspended person appeals administratively to the Hearing Officer in accordance with this code and procurement guidelines.

ABA Model Procurement Code Reference 9-102
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