

AN ACT

Bill 19-701
Act 19-666
effective
February 5,
2013

Codification
District of
Columbia
Official Code
2001 Edition

To amend the Procurement Practices Reform Act of 2010 to expand the causes for debarment or suspension, to ban permanently a person who has twice been debarred from contracting with the District, to establish an Excluded Parties List that includes the names of persons and affiliates currently debarred or suspended from contracting with the District, to require monthly maintenance and publication of the Excluded Parties List, and to require review of the Excluded Parties List before bid consideration.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Bad Actor Debarment and Suspension Amendment Act of 2012”.

Bad Actor
Debarment
and
Suspension
Amendment
Act of 2012

Sec. 2. Section 907 of the Procurement Practices Reform Act of 2010, approved April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-359.07), is amended as follows:

Amend
§ 2-359.07

(a) Subsection (c) is amended as follows:

(1) Paragraph (5) is amended by striking the phrase "title; or" and inserting the phrase "title;" in its place.

(2) Paragraph (6)(B) is amended by striking the phrase "debarment; or" and inserting the phrase "debarment;" in its place.

(3) Paragraph (7) is amended by striking the phrase "rules." and inserting the phrase "rules; or" in its place.

(4) A new paragraph (8) is added to read as follows:

“(8) Submission of a bid or proposal to contract with an agency or office of the District by a person debarred or suspended pursuant to a conviction under subsection (c)(1), (2), or (3) of this section, unless the CPO has provided in the submission a written statement to the Chairman of the Council of the compelling reasons to consider the bid or proposal. A second debarment resulting from the submission of a bid or proposal by a debarred person shall result in a permanent debarment pursuant to subsection (k) of this section.”.

(b) New subsections (j) and (k) are added to read as follows:

“(j)(1) The Office of Contracting and Procurement shall compile and maintain a list of persons who have been debarred or suspended in the District to be known as the “Excluded Parties List,” which shall include:

“(A) The name and phone number of the OCP official responsible for maintaining the list;

“(B) The names and addresses of suspended and debarred persons;

“(C) The name of the agency that instituted the suspension or debarment;

“(D) The cause of the suspension or debarment; and

"(E) The dates and terms of each suspension or debarment.

"(2)(A) The Excluded Parties List shall be updated monthly and prominently published on the OCP's website.

"(B) Copies of the Excluded Parties List shall be distributed electronically to District contracting officers and contract administrators on a monthly basis.

"(C)(i) Bids or proposals received from a person named on the Excluded Parties List shall be rejected unless the CPO provides the person with a written statement before the bid or proposal is submitted stating the compelling reasons why the bid or proposal should be considered. The CPO's determination shall be appended to the bid or proposal submitted.

"(ii) If the bid or proposal is awarded to the debarred or suspended person, the award, along with the CPO's determination, shall be prominently published on the OCP's website within 15 days of the issuance of the award and published in the District of Columbia Register as soon as is practicable.

"(3) Immediately before the award of a contract, the contracting officer or administrator shall review the most recent version of the Excluded Parties List to ensure that persons being considered for the award are not named on the list. If a person being considered for the award appears on the Excluded Parties List, the contracting officer or administrator shall notify the person in writing that the person's bid or proposal shall be rejected unless the person provides a written statement from the CPO in accordance with sub-subparagraph (i) of this subparagraph within 15 days of receipt of the written notification.

"(k) A person who has been debarred 2 times by the District shall be banned permanently from contracting with a District agency or office; provided, that the suspensions leading to debarment resulted from a violation, conviction, or judicial determination listed in subsection (b)(1) of this section but not a charge listed in subsection (b)(2) of this subsection. A permanent ban from contracting with the District bars a person from consideration for award of contracts or subcontracts permanently; provided, that 10 years after the person's debarment, the person may be eligible for reinstatement if the CPO provides written notification to the Chairman of the Council that the person's business practices have been reformed."

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.