



Debarment Procedure

Purpose and Intent. The county endeavors to solicit offers from, award contracts to, and consent to subcontracts with responsible vendors and contractors only. To further this policy, the county asserts its authority to debar certain vendors and contractors from participating in solicitations pursuant to the policies and procedures herein. The serious nature of debarment requires that this sanction be imposed only when it is in the public interest for the county's protection and not for purposes of punishment. Debarment is intended as a remedy in addition to, and not in substitution of, the evaluation of the responsibility of county vendors and contractors, and this policy and the procedures provided for herein shall not supplant or supersede county's authority to reject or otherwise terminate vendors or contractors based on findings of non-responsibility on a case-by-case basis.

Debarment and Suspension. The purchasing director, after consultation with the County Attorney's office, shall have the authority to debar an actual or prospective vendor or contractor for cause from consideration for award of purchases or contracts. Such debarment shall not exceed five (5) years from the date of the final determination of debarment. Upon initiation of the debarment procedure, the purchasing director, after consultation with the County Attorney's office, shall also have the authority to suspend an actual or prospective vendor or contractor from consideration for award of purchases or contracts pending a final determination of debarment. Such suspension shall be for a period of one (1) year or until a final determination regarding debarment is made, whichever occurs earlier. If a company has been suspended or debarred previously, the County has the right to impose a longer debarment, including permanent debarment.

Causes for Debarment or Suspension. Debarment of a vendor or contractor may be effected for cause if such cause exists with regard to the vendor or contractor itself or a principal of such vendor or contractor. For the purposes of this policy, a person shall be deemed a principal of a vendor or contractor if he/she is a partner, majority shareholder, proprietor, director, officer, board member, manager, managing member, or the functional equivalent thereof, of such vendor or contractor. Cause for debarment or suspension shall exist if the purchasing director determines that any of the following applies to the contractor or vendor, or a principal thereof:

1. Conviction for commission of a criminal offence incident to obtaining or attempting to obtain a public or private contract or subcontract, or incident to the performance of such contract or subcontract.
2. Conviction under state or federal statutes for embezzlement, theft, forgery, bribery, falsification or destruction of records, receipt of stolen property or any other offense indicating or suggesting a lack of business integrity or business honesty, which currently, seriously, and directly affects the person or entity's responsibility as a vendor or contractor.
3. Conviction or civil judgment finding a violation of state or federal antitrust statutes arising out of the submission of bids or proposals.

4. A determination by a court, hearing officer, administrative official, or any local, state, or federal governmental entity or agency that the person or entity violated the provisions of any local, state, or federal laws or regulations.
5. Commission of any fraud or misrepresentation in connection with a bid, quotation, proposal, solicitation, or contract with the county or another public entity, regardless of whether such fraud or misrepresentation resulted in a conviction.
6. Violation of a material solicitation/contract provision with the county or public entity, including, but not limited to the following:
 - a) Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in a bid/contract;
 - b) Abandonment of a contract;
 - c) Failure to pay a contractor, sub-contractor, or material provider as required by a lawful contractual agreement, the Florida Statutes, or other applicable law;
 - d) Repudiation of a bid or contract by failure to provide bonds, insurance, or other required certificates as required pursuant to such bid or contract;
 - e) Refusal to accept an addendum, agreement, or contract, or to perform thereon provided such addendum, agreement, or contract was issued timely and in conformity with the bid or solicitation received; however, a refusal to renew or extend an agreement or contract or exercise an option to renew or extend where such renewal, extension, or option requires the mutual consent of the parties pursuant to the terms of the applicable agreement or contract shall not be deemed a violation of this provision; or
 - f) Overall performance of a contract, which the county or another public entity evaluated as poor or unsatisfactory. For the purposes of evaluating the overall performance of county contracts, performance shall be deemed poor or unsatisfactory where the vendor or contractor continues to perform poorly or otherwise unsatisfactorily after the county has contacted the vendor or contractor regarding its performance issues and undertaken any dispute resolution or curative procedures as mandated by the applicable contract or agreement. Overall performance of a contract with another public entity shall be determined based upon any competent substantial evidence of poor or unsatisfactory performance for such other public entity, including, but not limited to, a letter terminating the vendor or contractor's services for cause; adverse action taken by the entity against the vendor, including, but not limited to, termination for cause, debarment, suspension, and/or a lawsuit.

7. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more bids/contracts with the county or any other public entity; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered a basis for debarment;
8. Presence of principals or corporate officers in the vendor or contractor's business or concern, who were principals or corporate officers within another business or concern at the time when such other business or concern was suspended or debarred within the last five (5) years under this debarment policy and procedure or by another public entity;
9. Violation of an ethical standard as set forth in either the county's code of ordinances or in the Florida Statutes; or
10. Any other cause or material factor which adversely affects the responsibility of a person or entity as a county contractor, including but not limited to suspension or debarment by another governmental entity for any of the causes listed in this section.

Subcontractors. It is the responsibility of the prime contractor to ensure that the same provisions set forth for the prime contractor are passed to the subcontractors. It is the responsibility of the prime to have subcontractors sign documentation that they understand and list debarments. The prime contractor shall follow the same process as the County in debarment of subcontractors.

Notice of Intent to Debar. Upon the purchasing director's preliminary determination that cause exists for debarment, the Director of Purchasing shall send a written notice of intent to debar to the contractor or vendor (or prospective contractor or vendor). Such notice shall state:

1. The reasons for the proposed debarment;
2. The proposed length of debarment;
3. That the preliminary finding of cause and proposed debarment action shall become final if an administrative request for review is not timely filed in accordance with the procedures for such review established herein;
4. Whether the contractor or vendor has been suspended from participating in other bids and solicitations pending the finality of the debarment determination; and
5. That suspended and/or debarred persons cannot be considered for award or receive new contracts during the period of suspension and/or debarment.

Request for Review. A vendor or contractor (or prospective vendor or contractor) that has received a notice of intent to debar may request that the proposed debarment action be reviewed and reconsidered. **Such request must be received by the purchasing director in writing within ten (10) business days of issuance of the notice of the intent to debar.** Such request for review and reconsideration shall state the basis for review and reconsideration, and shall include such

documents, evidence, and other information as the requesting party deems necessary to support its position. If no request for review and reconsideration is received within the time period allowed, the determination of the purchasing director that cause exists for debarment and the proposed length of the debarment shall become final, and all rights to request review or appeal shall be deemed waived.

Review. Upon timely filing of a written request for review, the purchasing director shall review and reconsider the preliminary determination of cause for debarment, with or without a meeting or hearing with the party requesting review, at the option of the purchasing director. The purchasing director may request information from, and speak individually or collectively to, any people or entities having information relevant to the debarment determination. The purchasing director shall render a written decision on the request for review and reconsideration, which shall include the purchasing director's final debarment decision and action taken, if any, within thirty (30) calendar days following receipt of the request. The time for rendering a written decision may be extended by (i) the deputy county manager overseeing the purchasing department or (ii) the county manager, if such extension is determined to be in the best interest of the county.

Appeal of the Purchasing Director's Decision. A vendor or contractor proposed for debarment may appeal the final decision of the purchasing director by submitting a written appeal of such decision to the County Manager within five (5) business days after the purchasing director's issuance of such final decision. The County Manager shall evaluate the vendor or contractor's written appeal and issue a written decision within thirty (30) calendar days of his/her receipt of such appeal. The vendor or contractor may appeal the County Manager's decision by submitting a written appeal to the County Chair with a copy to the County Manager and purchasing director within five (5) business days of the issuance of the County Manager's written decision. The appeal shall be placed on the agenda of a regular county council meeting as determined by the County Manager. The county council shall evaluate the appeal and render a decision at the meeting. The decision of the county council shall be final. The debarment and appeals processes shall not stay the county's solicitation, negotiation, or contract award processes, it being understood that the county must continue to be able to freely conduct county business during the debarment process.

Debarred and Suspended Persons List. The purchasing director shall maintain a list of suspended and debarred vendors and contractors. Vendors and contractors that have been suspended or debarred shall be deemed not responsible under the county's procurement code and be precluded from responding to solicitations or receiving awards of contracts from the county during the period of their suspension or debarment. Any bid or other response received from such a party during the period of their suspension or debarment shall be disregarded and not evaluated for potential award.

Other Remedies. Nothing in this policy or these procedures shall limit the county from pursuing other legal or contractual rights or remedies against a suspended or debarred contractor or vendor, regardless of the pendency of any proceedings hereunder that are related to such suspension or debarment.