

DEBARMENT

1.06.279 Debarment and suspension of bidders, contractors or subcontractors.

A. Pursuant to the City Charter and this Chapter, the City attempts only to solicit offers from, award contracts to, and consent to subcontracts with responsible contractors. In the event that an illegal, improper or unethical practice has occurred, debarment and suspension are discretionary actions that are appropriate means to effectuate the City's goal.

B. Vendors, contractors, subcontractors or principals (contractor) of a business that have been debarred or suspended by the City are excluded from entering contracts with the City, and the City shall not solicit offers from, award contracts to, or consent to subcontracts with debarred or suspended contractors and the principals involved; provided, however, the City Manager or Director of Utilities, as applicable, may waive this requirement if it is determined that there is a compelling reason for such action, and the Council/Board, as appropriate, is informed of such action.

C. Causes for Debarment. A contractor may be debarred for any of the following reasons:

1. The commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public contract or subcontract;
2. The commission of embezzlement, theft, forgery, bribery, falsification of records, perjury or receiving stolen property;
3. The commission of a serious offense that indicates a lack of business integrity or business honesty that may substantially affect the present responsibility of a contractor;
4. The violation of the terms of any public contract or subcontract so as to result in serious and direct consequences for the public entity letting the contract, including, but not limited to, a history of a failure to perform or unsatisfactory performance of, one or more contracts; or
5. A violation of the City's Code of Ethics, Chapter 1.46 TMC, or other cause so serious or compelling in nature that it substantially affects the present responsibility of the contractor.

D. Procedures.

1. Investigation and notice of intent to debar or suspend. The Finance Director, or designee, may initiate an investigation and, if warranted, provide notice to a contractor of the City's intent to debar or suspend said person and/or entity from bidding on and contracting with the City. The notice shall provide that the debarment becomes effective within ten business days unless the person or entity appeals said action to the Hearing Examiner.

2. The Hearing Examiner Rules of Procedure for Hearings, Chapter 1.23 TMC, shall be applicable to said appeal proceeding. Debarment or suspension shall be ordered if a preponderance of credible evidence indicates that the contractor has committed any act(s) set forth in subsection C. above.

E. Period of Debarment. Debarment shall be for a period commensurate with the gravity of the causes therefore, provided that in no instance shall debarment extend for a period longer than five years unless the contractor has failed to satisfy any condition of suspension or implement any required corrective action.

F. Appeal. Appeals of the decisions of the Hearing Examiner shall be made within 30 days by appropriate legal action filed in the Pierce County Superior Court.

(Ord. 27777 Ex A; passed Jan. 6, 2009)

SALE OR PURCHASE OF REAL PROPERTY

1.06.280 Purchase or sale of real properties by City Council resolution.

A. Certification of Surplus. The City Manager, as to real property of the General Government, and the Director of Utilities, as to real property of the Department of Public Utilities, or their respective designees, shall certify in writing that such surplus property belonging to the City have no further public use, or that the sale thereof would be in the best interests of the City; provided, however, that real property obtained by foreclosure of local improvement guarantee obligation or local improvement district obligation is exempt from such certification. The original documents for surplus real property sales shall be maintained in Real Property Services office.