

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2019

COUNCIL BILL NO. CB19-0194
COMMITTEE OF REFERENCE:
Finance and Governance

A BILL

For an ordinance adding additional grounds to the city’s debarment ordinance in order to further protect the city in its contracting.

WHEREAS, the debarment ordinance currently contains grounds for debarment related to violations of section 20-76, D.R.M.C. and 20-77, D.R.M.C.;

WHEREAS, the taxpayers of the city should have additional protections from contractors, subcontractors, and suppliers who violate laws related to business integrity or business honesty, or who willfully fail to perform contracts including requirements related to the payment and treatment of workers mandated by city ordinances, or who have a history of failing to perform contracts with the city and requirements related to the payment and treatment of workers mandated by city ordinances;

WHEREAS, city council has determined that the debarment ordinance should be amended to add additional grounds for debarment, including conviction of certain crimes or entry of a civil judgment on grounds related to business integrity or business honesty; and

WHEREAS, city council has determined that the debarment ordinance also should include the ability to temporarily suspend a contractor that is under criminal investigation for crimes related to business integrity or business honesty.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. That section 20-77, D.R.M.C. shall be amended by deleting the language stricken and adding the language underlined, to read as follows:

(b)(2) Contractor shall mean a contractor who has contracted with or is seeking to contract with the city or to provide goods or services to or on behalf of the city and a subcontractor or supplier of any tier under a contract.

* * *

(c) Grounds for debarment. As used in this section, "grounds for debarment" shall mean the occurrence within the three (3) years immediately preceding a report as provided in subsection (d) of:

* * *

(6) Conviction of a criminal offense under local, state, or federal law or entry of a civil judgment

1 for embezzlement, theft, forgery, bribery, falsification or destruction of records, making false
2 statements, tax evasion, receiving stolen property, fraud, unfair trade practices, violation of
3 state or federal antitrust statutes, or other law indicating a lack of business integrity or business
4 honesty by a contractor or an officer, director, partner, manager, key employee, or other
5 principal of a contractor.

6 (7) Conviction of a criminal offense or entry of a civil judgment related to obtaining or
7 attempting to obtain a public or private contract or subcontract, including but not limited to bid
8 rigging or collusion by a contractor or an officer, director, partner, manager, key employee, or
9 other principal of a contractor.

10 (8) Serious violation of the terms of one or more contracts with the city, including willful
11 material failure to perform, following notice of such failure, or a history of material failure to
12 perform, or of materially unsatisfactory performance of one or more contracts with the city.

13 (9) Current debarment by any other governmental entity based upon a settlement agreement
14 or a final administrative or judicial determination issued by a federal, state, or local
15 governmental entity.

16 (10) Any other cause of so serious or compelling a nature that it affects the present
17 responsibility of a contractor or subcontractor.

18 (11) Any violations of or described in D.R.M.C. section 20-80.

19 (12) Any violations of or described in D.R.M.C. sections 20-82 through 20-84.

20 ~~(6)-(13)~~ The term "grounds for debarment" shall not include any isolated or insubstantial
21 violation of law that is promptly corrected by a contractor in accordance with the requirements
22 of the city.

23 **Section 2.** That section 20-77, D.R.M.C. shall be further amended by deleting the language
24 stricken and adding the language underlined, to read as follows:

25 (h) *Suspension.* The debarment board, in consultation with the city attorney, may temporarily suspend
26 any contractor because a criminal investigation has commenced or a criminal charge has issued
27 against the contractor or an officer, director, partner, manager, key employee, or other principal of a
28 contractor for an offense under local, state, or federal law for embezzlement, theft, forgery, bribery,
29 falsification or destruction of records, making false statements, tax evasion, receiving stolen property,
30 fraud, unfair trade practices, violation of antitrust statutes, or other law indicating a lack of business
31 integrity or business honesty until the investigation is concluded without charges or the charges are
32 resolved through conviction, plea, dismissal, or other resolution.

