

Bidder & Contractor Debarment

Los Angeles Administrative Code §§ 24.61 *et seq.*

Effective July 8, 2013



200 North Spring Street, 24th Floor
Los Angeles, CA 90012
(213) 978-1960
ethics.lacity.org

**Los Angeles Administrative Code
Division 24, Chapter 6
TABLE OF CONTENTS**

SEC. 24.61. VIOLATIONS REQUIRING DEBARMENT.....	1
SEC. 24.62. MITIGATING CIRCUMSTANCES	1
SEC. 24.63. PROCEDURAL REQUIREMENTS.....	2

Debarment Regulations

Los Angeles Administrative Code, Division 24, Chapter 6
Added by Ordinance No. 182548, effective 7/8/2013.

SEC. 24.61. VIOLATIONS REQUIRING DEBARMENT.

Charter Section 470(c)(12) and Municipal Code Sections 49.7.35 and 49.7.36 limit campaign contributions and fundraising by specific persons associated with certain City bids and contracts. A person found to have violated one or more of those provisions may not bid on, or be considered for, any City contract, extension or amendment, unless the members of the Ethics Commission determine that mitigating circumstances exist. Debarment lasts one year for the first violation, two years for a second violation, three years for a third violation, and four years for all subsequent violations.

SEC. 24.62. MITIGATING CIRCUMSTANCES.

(a) The members of the Ethics Commission must determine whether mitigating circumstances exist whenever a violation of Charter Section 470(c)(12) or Municipal Code Sections 49.7.35 or 49.7.36 is found to have occurred.

(b) The Ethics Commission will consider the following when determining whether mitigating circumstances exist:

(1) The nature and extent of the violation, which may include factors such as the following:

- (A) The number of counts;
- (B) Whether the violation was egregious;
- (C) Whether the awarding authority notified the respondent of the legal requirements;
- (D) Whether the violation was deliberate or coordinated; or
- (E) Whether the respondent attempted to cure the violation.

(2) The extent to which the respondent cooperated with the Ethics Commission, which may include factors such as the following:

- (A) Whether the respondent self-reported the violation to the Ethics Commission;
- (B) Whether the respondent offered a full admission;
- (C) The timeliness and extent of the respondent's cooperation with the audit and investigation of the violation that triggers debarment;
- (D) The timeliness and extent of the respondent's cooperation with the audit and investigation of any other violation; or
- (E) The prompt payment of fines recommended by staff or issued by the Commission.

(3) The extent to which debarment will affect the City or those receiving City services, which may include factors such as the following:

- (A) The effect of debarment on City services;
- (B) The effect of debarment on the City's finances;
- (C) The effect of debarment on City projects and contracts; or
- (D) The effect of debarment on the City's ability to fulfill any legal mandates.

(4) The respondent's enforcement history with the Ethics Commission for the same or different types of violations.

(5) Circumstances unique to the respondent or the contract.

(6) The overall interests of justice.

SEC. 24.63. PROCEDURAL REQUIREMENTS.

(a) The determination regarding whether mitigating circumstances exist is final and must be made at a public meeting.

(b) The Ethics Commission staff must notify all City agencies, departments, boards, and offices at least 21 days before a determination regarding mitigating circumstances is going to be made.

(c) The staff must make written recommendations to the members of the Ethics Commission regarding

whether mitigating circumstances exist and provide a copy of the recommendations to the respondent at least 21 days before the determination is going to be made.

(d) The respondent may appear at the public meeting, with or without counsel, and may respond both verbally and in writing to the staff recommendations. Failure to appear shall be deemed acceptance of the Commission's determination and shall exhaust any further administrative remedies

(e) The staff must issue notice of the determination regarding mitigating circumstances within 10 business days after the determination is made. The debarment notice must be provided to all City agencies, departments, boards, and offices and must be posted on the Ethics Commission's web site.

(f) If the members of the Ethics Commission determine that mitigating circumstances do not exist, an awarding authority that has an existing contract with the respondent must make a written determination regarding whether it is in the City's best interests to terminate that contract. The determination must be made within 60 days of receiving the debarment notice.

(g) Once notice in 24.63(b) is made, no action on any bid involving the respondent may be taken until the members of the Ethics Commission make a determination. If the members of the Ethics Commission determine that mitigating circumstances do not exist, the

respondent's status as a bidder is terminated as of the date the staff provides debarment notice to the awarding authority.

- (h) If the respondent is a City contractor, subcontractor or underwriter, that status is not altered, and work and payments under an affected City contract must continue until all of the following have occurred:
 - (1) The members of the Ethics Commission have determined that mitigating circumstances do not exist;
 - (2) The staff has issued the debarment notice; and
 - (3) The awarding authority has made a written determination under Municipal Code Section 49.7.35(C) that it is in the City's best interests to terminate the contract.
- (i) The respondent may waive any of the respondent's procedural rights.