

BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF GEORGIA

PROCEDURES FOR DEBARMENT

OF DESIGN PROFESSIONALS, CONSULTANTS, AND CONTRACTORS

This Debarment Procedure is adopted pursuant to Board of Regents Policy 9.4.8 which provides that a design professional, consultant, or contractor may be debarred from performing on a public works project in any capacity for the Board of Regents for up to five years. The procedures to be utilized for suspension and debarment of design professionals, consultants, and contractors, are as follows:

(A) **Application.** This procedure applies to debarment of persons, firms, partnerships, joint ventures or corporations from the consideration of or benefit from an award of contract by the Board of Regents of the University System of Georgia (USG) or the award of a subcontract by a contractor, design professional, or consultant under contract with USG. It applies to all architects, engineers, design professionals, consultants, contractors, construction managers, program managers, service providers, suppliers, subcontractors and vendors, including their owners, principals and officers, both individually and in connection with their firms, (hereinafter collectively referred to as "Contractors") doing business, directly or indirectly (as a subcontractor) with USG.

(B) **Causes for Debarment.** The causes for debarment include the following: w.7(a)12.8C-1105 of the Craft Art & Trade Code
(1) Violation of the antitrust laws of the United States, or any state or federal agency or instrumentality or political subdivision thereof, in restraint of trade or of free and open competition in any trade, commerce, or industry in the United States, or any state or federal agency or instrumentality or political subdivision thereof;

(2) Conviction or entry of a plea of guilty, *nolo contendere*, or conviction under any statute of embezzlement, theft, forgery, bribery, falsification or destruction of documents, fraud, or any other offense involving dishonesty or breach of trust, or any other offense indicating a lack of business integrity, or a conviction or entry of a plea of guilty, *nolo contendere*, or conviction under any statute of perjury, or any other offense indicating a lack of business integrity, and directly effects responsibility as a Contractor;

(3) Conviction or entry of a plea of guilty, *nolo contendere*, or conviction under any antitrust statutes arising out of the submission of bids or proposals;

(4) Violation of contract provisions, as set forth below, of a contract, or any subcontract, to justify debarment action:

(a) Deliberate failure without good cause to perform the contract, or any subcontract, within the time limit provided in the contract; or

(b) A recent record of failure to perform or of unsatisfactory performance under the terms of one or more contracts; provided that failure to perform or of unsatisfactory performance was caused by acts beyond the control of the Contractor, or any subcontractor, and is not a cause for debarment;

(5) Any other cause so serious and compelling as to affect the Contractor's reliability or responsibility to satisfactorily perform a contract, including, but not limited to, debarment by another governmental entity; and

(6) Any violation of the conflict of interest provisions of Official Code of Georgia Annotated Sections 45-10-20 through 45-10-28.

(C) Initiation of Debarment Action.

(1) *Initiation.* Debarment is initiated by a written request to the USG Director of Contracts and Services. The request shall plainly state the facts supporting the debarment request and shall include supporting information as necessary.

(2) *Requestors.* The following individuals are authorized to make a request for debarment of a Contractor:

(a) Any program manager, project manager, or project director of a construction project for USG, any unit of USG, Georgia State Financing and Investment Commission (GSFIC), Georgia Department of Administrative Services (DOAS), or the Georgia Building Authority (GBA).

(b) The president, vice president, director, legal advisor or other duly authorized officer of any unit of USG.

(c) A program manager, project manager, or project director of a construction project for USG, any unit of USG, Georgia State Financing and Investment Commission (GSFIC), Georgia Department of Administrative Services (DOAS), or the Georgia Building Authority (GBA).

(c) State that, if the Contractor so requests, a hearing will be held, provided such request is received by the Director of Contracts and Services, within ten (10) days after the Contractor receives notice of the proposed debarment action.

(d) State that, at Contractor's sole discretion and expense, Contractor may be represented by counsel.

(e) Notice that the Contractor is suspended from submitting bids or proposals on any USG project and is further prohibited from award of any contract or subcontract on any USG project based upon

(F) **Final Decision and Appeal**. Upon receipt of the Review Panel's recommendation, the Chancellor or his or her designee, shall have thirty (30) days to either accept, deny, or modify the recommendation. The Chancellor shall provide notice of the decision to Contractor via certified mail. If the Chancellor accepts a recommendation of debarment, the Contractor shall have ten (10) days from receipt of the Chancellor's written notice of debarment in which to file an appeal with the Vice Chancellor of Legal Affairs. If no appeal is filed within the allotted time, the Chancellor's written notice of debarment shall be considered the final decision. If an appeal is timely filed, the Chancellor or his or her designee, may thereafter, in his or her sole discretion, proceed as follows:

(1) Set the date, time and place for an appeal hearing before the Chancellor or his or her designee or refer the appeal to the Office of State Administrative Hearings ("OSAH") as a contested case pursuant to